

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HENRY BROWN,

Plaintiff,

v.

Case Number 09-14833
Honorable David M. Lawson
Magistrate Judge Mark A. Randon

EBONY LITTLE, NAN LNU, DON SMITH,
STEPHANIE KERN, DTE, and GOODWILL
INDUSTRIES,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANTS' MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT,
AND DISMISSING THE PLAINTIFF'S COMPLAINT**

Presently before the Court is the report issued on March 24, 2010 by Magistrate Judge Mark A. Randon pursuant to 28 U.S.C. § 636(b). Judge Randon recommended granting defendants Nan LNU and DTE's motion to dismiss because the plaintiff failed to demonstrate that these defendants acted under color of state law, as required for the plaintiff's claim under 42 U.S.C. § 1983. Judge Randon also recommended granting defendants Ebony Little, Don Smith, and Goodwill Industries's motion for summary judgment for the same reason. Judge Randon recommended that this Court dismiss the plaintiff's federal claims with prejudice and decline to exercise supplemental jurisdiction over the plaintiff's state law claims.

Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, no objections have been filed. The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases

the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt #22] is **ADOPTED**.

It is further **ORDERED** that the defendants' motion to dismiss [dkt. #16] is **GRANTED**.

It is further **ORDERED** that the defendants' motion for summary judgment [dkt. #15] is **GRANTED**.

It is further **ORDERED** that the plaintiff's complaint is **DISMISSED WITH PREJUDICE**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: April 13, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 13, 2010.

s/Teresa Scott-Feijoo
TERESA SCOTT-FEIJOO